IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1172 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 04/11/2003 in WP No. 16844 OF 2003 on the file of the High Court.)

Between:

1. Vinod Kedia, S/o. Bhanwarilal Kedia,
R/o.5-9-22/52, Adarsh Nagar, Hyderabad.
2. B.C.Janardhan Reddy, S/o. Guru Reddy,
R/o.H.No.8-2-350/3, Road No.3, Banjara Hills, Hyderabad.
3. G.Madhusudhan Reddy, S/o. G.Ram Reddy,
R/o.Plot No.112, M.L.As Colony, Road No.12, Banjara Hills, Hyderabad.

..... APPELLANTS

AND

1.The State of Andhra Pradesh, Rep. by the Principal Secretary to Government, Irrigation Department,Secretariat Buildings, Hyderabad.
2.The Executive Engineer, North Tanks Division, Irrigation Department, Budha Bhavan, Secunderabad.
3. The Hyderabad Urban Development Authority, Rep. by its Vice Chairman and Managing Director, Paigah Palace,
Begumpet, Hyderabad.
4.The District Collector, Ranga Reddy District, Lakdi-ka-pool, Hyderabad.
5.The Mandal Revenue Officer, Uppal Revenue Mandal, R.R.District.

.....RESPONDENTS

Counsel for the Appellant:Mr.E.AJAY REDDY

For the Respondents 1,2,4&5 : G.P. for Irrigation and

Command Area Development.

For the Respondent No.3: Mr.B.Viswanatha Reddy

Standing Counsel for HUDA.

The Court made the following :

ORAL JUDGMENT:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

Learned Single Judge, by the impugned order, dismissed the Writ petition on the ground that petitioners have filed a suit against Hyderabad Urban Development Authority –3rd respondent herein, (for short "the HUDA"), and, since the petitioners approached the Civil Court, they cannot be allowed to pursue the remedy under Article 226 of the Constitution of India. Admittedly, copy of the plaint in O.S. No. 613 of 2002 filed by the petitioners against the HUDA only was not on the record of the Single Judge. Therefore, learned Single Judge did not make mention of the parties in the suit as also the nature of the suit filed by the petitioner-appellants. The Suit was for perpetual injunction restraining HUDA not to interfere with the possession and enjoyment of the plaintiffs over the suit schedule property, namely, an extent of Ac. 2.15 guntas i.e. Ac.2.10 guntas in Survey No. 196/1 and 0.05 guntas in Survey No. 196/2, situated at Nacharam village, Uppal Revenue Mandal, Ranga Reddy District, and, not to alter or change the nature of the land. The scope of the Writ Petition is slightly different with as many as four other respondents.

May be that, one of the prayers made in the Writ Petition is same and similar as the prayer made in the suit filed by the petitioners, but, all the prayers as well as the scope of the writ petition are not subject matter of the civil remedy availed of by the petitioners. In nutshell, the claim of the petitioners is that the respondents cannot deprive the petitioners of the property otherwise than by due process of law, and, the said petition ought not to have been dismissed at that stage without taking cognizance of the stand of the respondents as to how and why they could deprive the petitioner-appellants of the property otherwise than by due process of law.

Therefore, the Writ Appeal is allowed and the impugned order is set aside. Learned single Judge is requested to dispose of the Writ Petition in accordance with law. No costs.

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DEVINDER GUPTA, C.J.

16.8.2004.

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C.V.RAMULU, J.

VR.

To

1.The Principal Secretary to the Government of Andhra Pradesh, Irrigation Department,Secretariat Buildings, Hyderabad.
2.The Executive Engineer, North Tanks Division, Irrigation Department, Budha Bhavan, Secunderabad.
3. The Vice-Chairman and Managing Director, Hyderabad Urban Development Authority, Paigah Palace, Begumpet, Hyderabad.
4.The District Collector, Ranga Reddy District, Lakdi-ka-pool, Hyderabad.
5.The Mandal Revenue Officer, Uppal Revenue Mandal, R.R.District.

6. Two CCs to Government Pleader for Irrigation and Command Area Development, High Court Buildings, Hyderabad (OUT).

7. Two CD copies.